

Remarks/Arguments

Applicant thanks the Examiner for responding to a telephone call regarding formatting the amendment to the specification in view of the difference in format of a U.S. application by paragraph number versus page and line number of the PCT priority publication of the instant application. Applicant has indicated the specification amendments according to the latter practice, but will adhere to any formal requirements, if necessary, after action on the merits.

The specification has been amended to more clearly describe the improvement over a prior art reference referred to in the Background of the Invention. The specification has also been amended to clarify that axle 42 contacts the rear wall support section in the preferred embodiment shown in Fig. 4. The specification has also been amended to emphasize the level orientation of the flat platform over the axle when transporting a load as depicted in Fig. 9.

Claims 1 and 8 have been amended to more clearly define the structure and cooperation between the cross member and the inclined rear wall to reflect the mode of operation described on page 5, lines 15-18 and depicted in Figs. 4 and 5 of the drawings so as to elevate the barrow for transporting empty to the loading site. This is clearly not contemplated in the Hall patent. Claims 1 and 8 have also been amended to more clearly define the level orientation of the platform when the cross member supports the middle of the platform. Claim 1 has been further limited to recite contact between the cross member and the rear support section in the first position and contact between the cross member and the middle of the platform in the third position.

Reconsideration of the rejection of claims 1-8, as amended, is respectfully requested.

Rejection of Claims 1 and 2 under 35 U.S.C 102(b)

Claims 1 and 2 have been rejected under 35 U.S.C 102(b) as anticipated by Hall- U.S. Patent No. 5,810,543. Applicant agrees with the Examiner in his application of claim 1 to the structure of the Hall patent down to the phrase "characterized in that". It should be noted that the preamble of claim 1 is intended to recite the structure of the prior art in accordance with PCT practice. The portion of claim 1 following the preamble recites the **improvement** over the Hall patent that is believed to be patentable. It is submitted that this improvement is not found in Hall, namely that the rear wall is inclined rearwardly

from the heel end to define a rear support section and that the cross member is closely adjacent the rear support section so as to carry out the supporting function when the handle is depressed. The Hall patent (Fig. 10) has an inclined rear wall but it is not intended to support anything and the cross member (wheel carriage 39) is anything but closely adjacent to the inclined rear wall. Therefore, the Hall reference, standing alone, fails to anticipate claim 1. Nevertheless, in order to more clearly define the structure and function of the cross member in the "first position" to enable transport of the barrow when empty as shown in applicant's Fig 5, claim 1 has been amended to recite a "first position where the wheels and barrow platform are both resting on the ground and said cross member contacts said rear support section so as to support the barrow on said inclined rear wall when the handle is depressed so as to elevate the platform above the ground". This is a new function not obtainable with the Hall patent and clearly not anticipated by the Hall structure. Claim 2 is dependent on claim 1 and recites a preferred inclination of the rear wall. Claim 2 is likewise not anticipated for the same reason as claim 1.

Rejection of Claim 3 under 35 U.S.C. 103

Claim 3 has been rejected under Section 103 as obvious in view of Hall. Claim 3 carries forward the recitation of Claim 1 upon which it is dependent and applicant would argue that it is not obvious to make a new use of a structure not suggested by Hall by changing pivot point and length of arms together with functional use of an inclined rear wall so as to raise the barrow for unloaded transport. Hall simply pivots the wheels to the rear on long arms to get them out of the way so that the platform can rest flat on the ground. Claim 3 adds specificity to claim 1 but it can be argued that this is a revelation that only seems obvious after the basic structural improvement of claim 1 has become known, and therefore is not "obvious" in a vacuum.

Rejection of Claims 4-6 and * under 35 U.S.C. 103(a)

Claims 4-6 and 8 have been rejected under Section 103(a) as unpatentable over Hall in view of Pipkin – U.S. Patent 2,930,152. Pipkin shows a wheeled shovel with a gate 70. Applicant agrees that the Examiner has correctly identified all the elements of the "gate" recited in claims 4 and 8 in Pipkin's gate structure 70. However, applicant submits that it

would not be obvious to one skilled in the art to superimpose Pipkin's wheeled shovel gate on Hall's convertible barrow for ground level loading, because of the difference in the way the two devices are intended to be used. Pipkin shows a scoop which is used as a shovel moving toward the load and digging with a pointed front edge 66 at an inclined angle (Fig. 2). The gate is then closed during transport. A tall gate is needed because the load is transported on an inclined angle (Fig. 1).

Hall loads his barrow while it is stationary flat on the ground by raking or moving an object into the barrow. If the load is subject to sliding out, the gate is lowered. In this case the minimum tilt angle from level that is achieved by the recited positions of the cross member in claims 1 and 8 makes the need for a tall gate unnecessary. The primary function of the gate is to steady the load during tilting, since the load is transported with the platform level above the ground. However, for some types of loads such as a refuse container or a potted plant (see specification, page 5, lines 20-22), the gate is open and remains open during transport, since the tilt angle during loading is minimal. The recited structure that produces a minimum tilt angle coupled with the addition of a pivotable gate work together to give a new and unobvious result.

As to claims 5 and 6, these are dependent on claim 4 and 5 respectively and merely recite the gate with greater specificity. While these features are substantially present in Pipkin, as pointed out by the Examiner, it is submitted that the independent claim 4 on which claims 5 and 6 depend is not obvious over Hall for the reasons stated above.

Rejection of Claim 7 under 35 U.S.C. 103(a)

Claim 7 is rejected under the above references further in view of Zamaria - U.S. Patent 5,123,187. Zamaria shows a rather complicated handle and cable arrangement for opening a pivotable, normally closed shutter 14 and means to lock it open against the closing biasing force of a spring (Col. 3, lines 1-30). While Zamaria meets the recitation of claim 7, Zamaria is dependent on claim 4, which applicant submits is unobvious for reasons stated above in the discussion of claim 4.

Other references of record teach elements of the claimed invention.

The Examiner has noted that the other reference of record teach elements of the claimed invention. Applicant agrees, but also points out that this is an old and crowded art and

such teaching of bits and pieces of the claimed invention is to be expected in such a case. However, as demonstrated above, the invention has been recited to clearly define a structure which improves over the basic Hall patents by adding a new function of operation by way of adjustment of basic parameters to provide minimum tilt angle, inclined rear wall to facilitate transport of the barrow in an unloaded condition, pivotable gate to be closed to steady the load during such minimum tilt and which also permits ground level loading of tall objects when open. Reconsideration of the rejection of claims 1-8, as amended, is respectfully requested and it is asked that the case be passed to issue.

Respectfully,



William C. Crutcher, Applicant

84 Munson Rd.

Middlebury, CT 06762

Tel. Nos. 203-577-2012

203-575-8322